



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,252	09/15/2000	Sekaran Nanja	20706-000110US	3800

7590

07/11/2003

Fidel D Nwamu  
Townsend and Townsend and Crew LLP  
Two Embarcadero Center 8th Floor  
San Francisco, CA 94111-3834

EXAMINER

DU, THUAN N

ART UNIT

PAPER NUMBER

2185

DATE MAILED: 07/11/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/663,252

Applicant(s)

NANJA, SEKARAN

Examiner

Thuan N. Du

Art Unit

2185

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-23 are presented for examination.
2. Applicant is required to update the status of all co-pending applications indicated in the instant application.

#### ***Drawings***

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings are required.

#### ***Double Patenting***

4. Claims 1, 2 and 4-7 provisionally rejected under the judicially created doctrine of double patenting over claims 1-6 of copending Application No. 09/662,990. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: both applications claim a method for allocating resources comprising the steps of displaying a list of resources; selecting the resources and configuring the selected resources. The subject application recites the processing resources which does not recite in the copending application. It would have been obvious to one of ordinary skill in the art to recognize that processing resources are one of a plurality of types of resources.

Art Unit: 2185

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-7 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 recites the limitation "the selected processing resources" in line 6. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 23 recites the limitation "the displaying of a plurality of operating system types" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

10. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Young, U.S. Patent No. 6,560,606.

11. Regarding claim 1, Young teaches a method for allocating processing resources comprising the steps of:

displaying a list of processing resources on a display device [col. 10, lines 1-3, 16-19];  
accepting signals from user input device to indicate the configuration of at least a portion of the processing resources [The operator configures the pipeline by selecting the needed resources (col. 10, lines 15-19). Therefore, inherently, the operator uses input device to input his/her selection]; and  
configuring the selected processing resource [col. 10, line 16].

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Art Unit: 2185

13. Claims 2-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young, U.S.

Patent No. 6,560,606.

14. Regarding claims 2-7, 10-12 and 23, these claims are directed to method steps for allocating processing resources of claim 1. As stated above, Young teaches the invention substantially as set forth in claim 1. At the time of the invention, one of ordinary skill in the art would have readily recognized that Young may obviously also teach the method steps of claim 1 as set forth in claims 2-7, 10-12 and 23. As such, claims 2-7, 10-12 and 23 are rejected under the same rationale with respect to claim 1.

15. Regarding claim 13, Young teaches a method for creating a computing environment comprising the steps of:

accepting a signal from an input device which enables the user to specify a type of software for use in the computing environment [col. 10, lines 18-19];

accepting a signal from an input device which enables the user to specify a type of hardware for use in the computing environment [col. 10, lines 16-18];

activating the software to run in the computing environment [col. 12, line 51 et seq.]; and

activating the hardware to run in the computing environment [col. 12, line 51 et seq.].

Young teaches that the system allows the user to select hardware (stage layout and plug-in layout) and corresponding software (parameter) to meet the needs of data consumers. Young does not explicitly teach the hardware is processor and the software is operating system. It would have been obvious to one of ordinary skill in the art to use the teaching of Young to allow the users to select the processor and operating system for creating a computer environment.

Art Unit: 2185

16. Regarding claims 14 and 18-22, these claims are directed to method steps for creating a computer environment of claim 13. As stated above, Young teaches the invention substantially as set forth in claim 13. At the time of the invention, one of ordinary skill in the art would have readily recognized that Young may obviously also teach the method steps of claim 13 as set forth in claims 14 and 18-22. As such, claims 14 and 18-22 are rejected under the same rationale with respect to claim 13.

17. Regarding claims 8, 9 and 15, Young teaches the claimed method steps. Therefore, Young teaches the apparatus to implement the claimed method steps.

18. Regarding claims 16 and 17, Young teaches the claimed method steps. Therefore, Young teaches the instructions for carrying out the claimed method steps.

### ***Conclusion***

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan N. Du whose telephone number is (703) 308-6292 or via e-mail, **thuan.du@uspto.gov**. The examiner can normally be reached on Monday-Friday: 9:00 AM - 5:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on (703) 305-9717.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231.

Art Unit: 2185

The fax numbers for the organization where this application or proceeding is assigned are as follow:

- (703) 746-7238 [After Final Communication]
- (703) 746-7239 [Official Communication]
- (703) 746-7240 [Non-Official Communication]

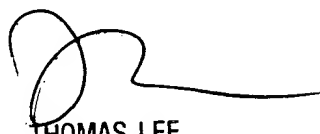
and/or:

(703) 746-5668 (use this fax number, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication).

Hand-delivered responses should be brought to:

Crystal Park II  
2121 Crystal Drive  
Arlington, VA 22202  
Fourth Floor (Receptionist).

Thuan N. Du  
June 23, 2003

  
THOMAS LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100